

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
KISSONE FREDERICK,

Petitioner

NO SUMMONS ISSUED

FILED

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

-against-

CV 12 - 1171

NOTICE OF MOTION

12 Cv.

Related Case: 09 G-208 (KAM)

MAR 09 2012

BROOKLYN OFFICE

UNITED STATES OF AMERICA,

Respondent.
-----X

**IRIZARRY, J.
REYES, M.J**

PLEASE TAKE NOTICE, that upon the annexed affidavits of JOYCE C. LONDON, Esq. and Petitioner KISSONE FREDERICK, the attached exhibits, and all prior proceedings and pleadings had herein, the Petitioner KISSONE FREDERICK, by his attorney, JOYCE C. LONDON, will move this United States District Court for the Eastern District of New York before the Honorable Kiyo A. Matsumoto, at a time and date convenient to the Court, at the United States District Courthouse, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201 for the following relief:

1. An order pursuant to 28 U.S.C. § 2241(c)(3) vacating and setting aside the jury verdict based upon ineffective assistance of trial counsel which occurred during plea negotiations prior to trial; and
2. For such other and further relief which this Court may deem just and proper.

Dated: New York, New York
March 8, 2012

Yours etc.,



JOYCE C. LONDON.
Attorney for Defendant
KISSONE FREDERICK
20 Vesey Street, Suite 400

New York, New York 10007
Tel: (212) 964-3700

To: Clerk of the Court
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Honorable Kiyo A. Matsumoto
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Carter Burwell, Esq.
Assistant United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, NY 11201

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
KISSONE FREDERICK,
Petitioner,

-against-

UNITED STATES OF AMERICA,
Respondent.
-----X

ATTORNEY'S AFFIDAVIT

12 Cv

Related Case: 09 Cr 258 (KAM)

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

JOYCE C. LONDON, being duly sworn, hereby deposes and says:

1. I am an attorney duly admitted to practice law before the bars of this Court and this State.
2. I represent Petitioner Kissone Frederick in the above-captioned matter and I submit this affidavit in support of Petitioner's motion pursuant to 18 U.S.C. § 2241 for an order vacating and setting aside the jury verdict based on ineffective assistance of trial counsel which occurred during plea negotiations prior to trial.
3. After a trial by jury, Petitioner/Defendant Kissone Frederick ("Frederick") was found guilty on all counts of the above-captioned six-count indictment.
4. Count One charged that in May 2006, Mr Frederick and others conspired to affect interstate commerce by the robbery of Jane Doe #1, an employee of Satellite Communications located at 787 Rogers Avenue, in Brooklyn, New York, and John Doe #1 and Jane Doe #2, employees of Card Corner in located at 7005 Avenue U in Brooklyn, New York in violation of 18 U.S.C. §1951 (a).
5. Count Two charged the attempted robbery of Jane Doe #1 in violation of 18 U.S.C. § 1951

(a).

6. Count Three charged that Mr Frederick used and carried a firearm in connection with the crime of violence charged in Count Two in violation of 18 U.S.C. §§ 924(c)(1)(A)(I) and 2.
7. Count Four charged the robbery of John Doe #1 and Jane Doe #2 in violation of 18 U.S.C. § 1961(a).
8. Count Five charged Mr Frederick and others with using and carrying a firearm in furtherance of the crime of violence charged in Count Four in violation of 18 U.S.C. §§ 9224 (c)(1)(A)(ii) and 2.
9. Count Six charged Mr Frederick with possessing a firearm, specifically a Bryco Arms 9 millimeter pistol and ammunition after previously having been convicted of a crime punishable by a term of imprisonment exceeding one year in violation of 18 U.S.C. § 922 (g)(1) and 924 (a)(2).
10. Mr Frederick is scheduled to be sentenced on April 2, 2012
11. In the pre-trial phase of his case and at trial, Mr Frederick was represented by assigned counsel, Ephraim Savitt, Esq.
12. The details of the relevant discussions between Mr Savitt and Mr Frederick regarding the Government's plea offer are set forth in the accompanying Petitioner's Affidavit which is attached hereto as Exhibit A.
13. A copy of the plea agreement which sets forth the charges to which Mr Frederick would be required to plead and the Government's view of the potential guidelines sentence which Mr Frederick would face if he accepted this plea agreement is attached hereto as Exhibit B.

14. A copy of the Pre-Sentence Report which contains the Probation Department's calculation of the guidelines based on the counts of which Mr Frederick was found guilty after trial is attached hereto as Exhibit C.

WHEREFORE, it is requested that Petitioner Kissone Frederick's motion pursuant to 18 U.S.C. § 2241 for an order vacating and setting aside the jury verdict based on ineffective assistance of trial counsel be granted.


JOYCE C. LONDON

Sworn to before me
this 8th day of March, 2012


NOTARY PUBLIC

POLLY N. PASSONNEAU
NOTARY PUBLIC, State of New York
No. 02PA4854036
Qualified in New York County
Commission Expires Feb 10, 2014